

Introduced by Senator Strickland

February 27, 2009

An act to amend Section 14304 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 750, as introduced, Strickland. Medi-Cal: prepaid health plans.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, and under which qualified low income individuals receive health care benefits. Existing law authorizes the department to contract with one or more prepaid health plans, in accordance with specified procedures, to provide benefits to eligible persons who are enrolled in these health plans.

Pursuant to these provisions, existing law requires the director, if he or she makes a finding of noncompliance or for other good cause, as described, to terminate a contract with a prepaid health plan or a Medi-Cal managed health care plan in accordance with specified procedures, or, in lieu of termination, to take one or more specified sanctions against the contractor.

This bill would make a technical, nonsubstantive change to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14304 of the Welfare and Institutions
- 2 Code is amended to read:

14304. (a) The director shall terminate a contract with a prepaid health plan or a Medi-Cal managed health care plan if he or she finds that the standards prescribed in this chapter, the regulations, or the contract are not being complied with, that claims accrued or to accrue have not or will not be recompensed, or for other good cause shown. Good cause includes, but is not necessarily limited to, three repeated and uncorrected findings of serious deficiencies that have the potential to endanger patient care, as defined by the department in accordance with this section, identified in the medical audits conducted by the department. Except in the event that the director determines there is an immediate threat to the health of Medi-Cal beneficiaries enrolled in the plan, at the request of the plan, the department shall hold a public hearing to commence 30 days after notice of intent to terminate the contract has been received by the plan. The department shall present evidence at the hearing showing good cause for the termination. The department shall assign an administrative law judge who shall provide a written recommendation to the department on the termination of the contract within 30 days after conclusion of the hearing. Reasonable notice of the hearing shall be given to the plan, to Medi-Cal beneficiaries enrolled in the plan, and to others who may be directly interested, including any other persons and organizations as the director may deem necessary. The notice shall state the effective date of, and the reason for, the termination.

(b) In lieu of contract termination specified in subdivision (a), the director shall have the power and authority to take one or more of the following sanctions against a contractor for noncompliance with the findings by the director as specified in subdivision (a):

- (1) Suspend enrollment and marketing activities.
- (2) Require the contractor to suspend or terminate contractor personnel or subcontractors.
- (3) Impose civil penalties not to exceed ten thousand dollars (\$10,000) per violation pursuant to regulations adopted by the director. Unless imposed in error, penalties shall not be returned to the plan.
- (4) Make one or more of the temporary suspension orders set out in subdivision (d).
- (5) Take other appropriate action as determined necessary by the department.

1 The director shall give reasonable notice of his or her intention
2 to apply any of the sanctions authorized by this subdivision to the
3 plan and others who may be directly interested, including any other
4 persons and organizations as the director may deem necessary.
5 The notice shall include the effective date, the duration of, and the
6 reason for each sanction proposed by the director.

7 (c) Notwithstanding subdivision (b), the director shall terminate
8 a contract with a prepaid health plan which the United States
9 Secretary of Health and Human Services has determined does not
10 meet the requirements for participation in the medicaid program
11 contained in Subchapter 19 (commencing with Section 1396) of
12 Chapter 7 of Title 42 of the United States Code.

13 (d) The department may make one or more of the following
14 temporary suspension orders as an immediate sanction: temporarily
15 suspend enrollment activities, temporarily suspend marketing
16 activities, require the contractor temporarily to suspend specified
17 personnel of the contractor, or require the contractor temporarily
18 to suspend participation by a specified subcontractor. The
19 temporary suspension orders must be effective no earlier than 20
20 days after the notice specified in subdivision (b).

21 If the department issues a temporary suspension order as an
22 immediate sanction, it shall notify the contractor of the nature and
23 effective date of the temporary suspension and at the same time
24 shall serve the provider with an accusation. Upon receipt of a notice
25 of defense filed by the contractor, the department shall within 15
26 days set the matter for hearing, which shall be held as soon as
27 possible, but not later than 30 days after receipt of the notice of
28 hearing by the contractor. The hearing may be continued at the
29 request of the contractor if a continuance is necessary to permit
30 presentation of an adequate defense. The temporary suspension
31 order shall remain in effect until the hearing is completed and the
32 department has made a final determination on the merits. However,
33 the temporary suspension order shall be deemed vacated if the
34 director fails to make a final determination on the merits within
35 60 days after the original hearing has been completed.

36 (e) A contractor may request a hearing in connection with any
37 sanctions applied pursuant to subdivision (b), other than those
38 contained in a temporary suspension order, within 15 working
39 days after the notice of the effective date of the sanctions has been
40 given, by sending a letter so stating to the address specified in the

1 notice. The department shall stay implementation of the sanction
2 upon receipt of the request for a hearing. Implementation of the
3 sanction shall remain stayed until the effective date of the final
4 decision of the department.

5 (f) Except as otherwise provided in this section, all hearings to
6 review the imposition of sanctions, including temporary suspension
7 orders, shall be held pursuant to the procedures set forth in Section
8 100171 of the Health and Safety Code.

9 (g) The director may collect civil penalties by withholding the
10 amount from capitation owed to the plan.